

REMARKS

The present amendment is responsive to the Office Action mailed in the above-referenced case on July 22, 2004, made Final. Claims 1-34 are standing for examination. Claims 1-34 stand rejected under the judicially created doctrine of double patenting. Claims 1-34 also stand rejected under 35 U.S.C. 103 as being unpatentable over Ezerzer et al (US 6,697,858 B1) hereinafter Ezerzer, in view of Davidson et al (6,434,121 B1) hereinafter Davidson.

The Applicant has carefully noted and reviewed the rejections, references and the Examiner's comments. Applicant herein presents arguments to overcome the double patenting rejection as not valid. Applicant also presents facts and arguments to distinguish applicant's claimed invention over that of Ezerzer in view of Davidson.

Regarding the double patenting rejection, the Examiner states that the subject matter claimed in the instant application is fully disclosed in the patent, 6,389,007 B1 hereinafter '007, since the patent and the application are claiming common subject matter.

Applicant respectfully traverses the Examiners above statement. Applicant's current claims under prosecution recite a first and second server node, a network capable device and a software application wherein the user operating the appliance accesses the second server node, states the intent of the call and the second server node based on the stated intent supplies agent status information to the user.

The '007 reference includes a first link between an IR and a telephony switch, and a second link between from the IR to a DNT processor. The Examiner presents this text in an underlined manner, side by side with applicant's claim language seemingly assimilating the links of '007 to the first and second nodes of applicant's invention. Applicant argues that links and nodes cannot read on each other as is currently known in the art. A link connects two devices and a node is a device.

The Examiner then underlines portions of the functionality recitations in the '007 invention reading that the IR directly controls the routing of calls to available agents under a single set of routing rules based on agent status. Applicant's invention clearly recites that a user of he network-capable device accesses the second server node, states the intent of the call and receives agent status. Applicant's claim language recited that a user receives agent status information. Call routing does not occur in the language. The '007 reference claims that a Integrated router routes calls based on agent status.

The two sets of claims may have 1 or 2 similar elements but that is the only similarity that exists between the two. One invention provides agent status to a user that wishes to contact a facility and the other invention routes calls within a facility by an automated integrated router in response to receiving agent status from the facility. Applicant points out that the user, the node architecture and the functionality of applicant's invention is not part of the '007 invention. Therefore, the double patenting rejection fails and the rejection should be withdrawn.

Regarding the 103 rejection the Examine states that Ezerzer fails to teach that agent status information is given to a requesting user based on the

stated intent of the call. The Examiner presents the art of Davidson which teaches routing calls based on the status of agents within the system. The Examiner continues to take official notice that the technique of handling the incoming call request based on the status information is well known in the art.

Applicant argues that the Examiner's reasoning for obviousness is faulty. Applicant's claim specifically recites that the user operating the network-capable appliance accesses the second server node, states the intent of the call and requests the agent-status information, the agent-status information accessed from the first server node by the second server node, based on the stated intent and is delivered to the requesting user. The Examiner has failed to show in the art applicant's claim limitation that the agent status is given to the user based on the stated intent. The Examiner's attempt to show said limitation in the art by stating that; "routing calls based on agent status is known in the art," is insufficient to establish a prima facie rejection against applicant's claim limitations.

Applicant argues that the art simply does not teach that a user receives agent status of a facility based on a stated intent of a call. In applicant's invention, for the first time known in the art, users are able to essentially browse agent-availability statistics, based on their stated intent of communication, before initiating any type of contact with communication center 21. Ezerzer and Davidson fail to teach this unique ability.

Applicant believes that claims 1 and 19, as argued, are patentable over the art of Ezerzer and Davidson. Claims 2-18 and 20-34 are patentable on their own merits, or at least as depended from a patentable claim.

As all of the claims left standing and as amended are clearly shown to be patentable over the art presented by the Examiner, applicant respectfully requests that the rejections be withdrawn and that the case be passed quickly to issue.

If any fees are due beyond fees paid with this amendment, authorization is made to deduct those fees from deposit account 50-0534. If any time extension is needed beyond any extension requested with this amendment, such extension is hereby requested.

Respectfully Submitted,
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